

## SENATE BILL No. 416

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-18-2; IC 16-21; IC 16-24.5; IC 34-18-2-14; IC 34-30.

**Synopsis:** Diagnostic imaging and outpatient facilities. Requires a licensed hospital (current law requires only a nonprofit hospital) to: (1) develop a community benefits plan; (2) annually report to the state department of health (state department) on the plan's implementation; and (3) post information concerning the hospital's charity care program and how to apply for the program. Establishes financial disclosure requirements for: (1) ambulatory outpatient surgical centers; and (2) diagnostic imaging facilities; and requires a report to be filed with the state department. Requires an ambulatory outpatient surgical center and a diagnostic imaging facility to provide charity care. Establishes the diagnostic imaging facility council, and requires a diagnostic imaging facility to be licensed by the state department. Establishes the allocation of state health resources commission to study and make recommendations concerning the state's allocation of health resources. Establishes the allocation of state health resources fund.

**Effective:** July 1, 2005.

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**Gard**

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January 13, 2005, read first time and referred to Committee on Health and Provider Services.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 416

A BILL FOR AN ACT to amend the Indiana Code concerning health and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 16-18-2-64.5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 64.5. "Community  
3 benefits", for purposes of:

4 (1) IC 16-21-9, has the meaning set forth in IC 16-21-9-1;

5 (2) **IC 16-21-9.5, has the meaning set forth in IC 16-21-9.5-2;**  
6 **and**

7 (3) **IC 16-24.5-7, has the meaning set forth in IC 16-24.5-7-1.**

8 SECTION 2. IC 16-18-2-76.5 IS ADDED TO THE INDIANA  
9 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2005]: **Sec. 76.5. "Contractual allowances",**  
11 **for purposes of:**

12 (1) **IC 16-21-6, has the meaning set forth in IC 16-21-6-0.1;**

13 (2) **IC 16-21-6.5, has the meaning set forth in IC 16-21-6.5-2;**  
14 **and**

15 (3) **IC 16-24.5-6, has the meaning set forth in IC 16-24.5-6-1.**

16 SECTION 3. IC 16-18-2-84 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 84. "Council" refers to



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the following:

(1) For purposes of IC 16-21, the hospital council.

**(2) For purposes of IC 16-24.5, the diagnostic imaging facility council.**

~~(2)~~ **(3)** For purposes of IC 16-25 and IC 16-27, the home health care services and hospice services council.

~~(3)~~ **(4)** For purposes of IC 16-28 and IC 16-29, the Indiana health facilities council.

~~(4)~~ **(5)** For purposes of IC 16-46-6, the interagency state council on black and minority health.

SECTION 4. IC 16-18-2-94.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 94.5. (a) "Diagnostic imaging facility", for purposes of IC 16-21-2 and IC 16-24.5, means a facility, physical location, motor vehicle, or vehicle:**

**(1) that is licensed under IC 16-24.5; and**

**(2) where diagnostic imaging services are provided to an individual for the purpose of providing health care.**

**(b) The term does not include the following:**

**(1) The private professional office of a:**

**(A) physician licensed under IC 25-22.5;**

**(B) dentist licensed under IC 25-14;**

**(C) chiropractor licensed under IC 25-10; or**

**(D) podiatrist licensed under IC 25-29;**

**unless on average more than thirty-five percent (35%) of the billed health care services provided in the office of a physician licensed under IC 25-22.5 in a work week are diagnostic imaging services that are billed to a governmental entity or a commercial payor.**

**(2) A hospital licensed under IC 16-21-2.**

**(3) An ambulatory outpatient surgical center licensed under IC 16-21-2.**

**(4) A health facility licensed under IC 16-28.**

**(5) A community health center that:**

**(A) is designated by the federal Department of Health and Human Services as a federally qualified health center and is receiving funds under the federal Public Health Services Act (42 U.S.C. 1395x et seq.); or**

**(B) meets the requirements for being designated by the federal Department of Health and Human Services as a federally qualified health center but does not receive funds under the federal Public Health Services Act (42 U.S.C.**

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- 1                   1395x et seq.).
- 2                   (6) A rural health center certified by the federal Centers for
- 3                   Medicare and Medicaid Services.
- 4                   (7) A motor vehicle or vehicle that is:
- 5                   (A) operated by; and
- 6                   (B) located on the premises of;
- 7                   an entity described in subdivisions (2) through (6).

8                   SECTION 5. IC 16-18-2-94.7 IS ADDED TO THE INDIANA

9                   CODE AS A NEW SECTION TO READ AS FOLLOWS

10                  [EFFECTIVE JULY 1, 2005]: Sec. 94.7. (a) "Diagnostic imaging

11                  service", for purposes of IC 16-21-2 and IC 16-24.5, means the

12                  following services or procedures:

- 13                  (1) Digital radiology.
- 14                  (2) Computed tomography.
- 15                  (3) Positron emission tomography.
- 16                  (4) Magnetic resonance imaging.
- 17                  (5) Nuclear imaging.
- 18                  (6) Ultrasonography.
- 19                  (7) Angiography.
- 20                  (8) A service or procedure identified as a diagnostic imaging
- 21                  service under a rule adopted by the state department under
- 22                  IC 16-24.5.

23                  The term includes a service or procedure described in this

24                  subsection that requires the insertion of a needle, catheter tube, or

25                  probe through the skin or a body orifice.

- 26                  (b) The term does not include the following:
- 27                  (1) A diagnostic imaging service that is integral to the
- 28                  performance of a nonradiological medical procedure and that
- 29                  is performed:
- 30                          (A) during a nonradiological medical procedure; or
- 31                          (B) immediately following a nonradiological medical
- 32                          procedure when the procedure is necessary to confirm the
- 33                          placement of an item during a nonradiological medical
- 34                          procedure.
- 35                  (2) A diagnostic imaging service described in subsection (a) if
- 36                  the diagnostic imaging service was ordered by the following:
- 37                          (A) A dentist licensed under IC 25-14, acting within the
- 38                          scope of practice of IC 25-14.
- 39                          (B) A chiropractor licensed under IC 25-10, acting within
- 40                          the scope of practice of IC 25-10.
- 41                          (C) A podiatrist licensed under IC 25-29, acting within the
- 42                          scope of practice of IC 25-29.

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**(3) X-rays.**

**(4) Fluoroscopy.**

SECTION 6. IC 16-18-2-104.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 104.5. "Education related costs", for purposes of:

**(1) IC 16-21-6, has the meaning set forth in IC 16-21-6-0.2;**

**(2) IC 16-21-6.5, has the meaning set forth in IC 16-21-6.5-3; and**

**(3) IC 16-24.5-6, has the meaning set forth in IC 16-24.5-6-2.**

SECTION 7. IC 16-18-2-140.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 140.5. **"Freestanding", for purposes of IC 16-21-2, has the meaning set forth in IC 16-21-2-14.5(a).**

SECTION 8. IC 16-18-2-149 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 149. "Governing board" means the board of trustees, governing board, board of directors, or other body responsible for governing:

**(1) a hospital;**

**(2) an ambulatory outpatient surgical center licensed as an ambulatory outpatient surgical center under IC 16-21; or**

**(3) a diagnostic imaging facility licensed under IC 16-24.5.**

SECTION 9. IC 16-18-2-150.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 150.4. "Government sponsored indigent health care", for purposes of:

**(1) IC 16-21-9, has the meaning set forth in IC 16-21-9-2;**

**(2) IC 16-21-9.5, has the meaning set forth in IC 16-21-9.5-3; and**

**(3) IC 16-24.5-7, has the meaning set forth in IC 16-24.5-7-2.**

SECTION 10. IC 16-18-2-154 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 154. "Gross patient revenue", for purposes of:

**(1) IC 16-21-6, has the meaning set forth in IC 16-21-6-1;**

**(2) IC 16-21-6.5, has the meaning set forth in IC 16-21-6.5-4; and**

**(3) IC 16-24.5-6, has the meaning set forth in IC 16-24.5-6-3.**

SECTION 11. IC 16-18-2-163 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 163. (a) "Health care provider", for purposes of IC 16-21, **IC 16-24.5**, and IC 16-41, means any of the following:

**(1) An individual, a partnership, a corporation, a professional corporation, a facility, or an institution licensed or legally**

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authorized by this state to provide health care or professional services as a licensed physician, a psychiatric hospital, a hospital, **an ambulatory outpatient surgical center, a diagnostic imaging facility**, a health facility, an emergency ambulance service (IC 16-31-3), a dentist, a registered or licensed practical nurse, a midwife, an optometrist, a pharmacist, a podiatrist, a chiropractor, a physical therapist, a respiratory care practitioner, an occupational therapist, a psychologist, a paramedic, an emergency medical technician, an emergency medical technician-basic advanced, an emergency medical technician-intermediate, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.

(2) A college, university, or junior college that provides health care to a student, a faculty member, or an employee, and the governing board or a person who is an officer, employee, or agent of the college, university, or junior college acting in the course and scope of the person's employment.

(3) A blood bank, community mental health center, community mental retardation center, community health center, or migrant health center.

(4) A home health agency (as defined in IC 16-27-1-2).

(5) A health maintenance organization (as defined in IC 27-13-1-19).

(6) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).

(7) A corporation, partnership, or professional corporation not otherwise qualified under this subsection that:

(A) provides health care as one (1) of the corporation's, partnership's, or professional corporation's functions;

(B) is organized or registered under state law; and

(C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.

Coverage for a health care provider qualified under this subdivision is limited to the health care provider's health care functions and does not extend to other causes of action.

(b) "Health care provider", for purposes of IC 16-35, has the meaning set forth in subsection (a). However, for purposes of IC 16-35, the term also includes a health facility (as defined in section 167 of this chapter).

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(c) "Health care provider", for purposes of IC 16-36-5, means an individual licensed or authorized by this state to provide health care or professional services as:

- (1) a licensed physician;
- (2) a registered nurse;
- (3) a licensed practical nurse;
- (4) an advanced practice nurse;
- (5) a licensed nurse midwife;
- (6) a paramedic;
- (7) an emergency medical technician;
- (8) an emergency medical technician-basic advanced;
- (9) an emergency medical technician-intermediate; or
- (10) a first responder, as defined under IC 16-18-2-131.

The term includes an individual who is an employee or agent of a health care provider acting in the course and scope of the individual's employment.

SECTION 12. IC 16-18-2-246 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 246. "Net patient revenue", for purposes of:

- (1) IC 16-21-6, has the meaning set forth in IC 16-21-6-2;
- (2) **IC 16-21-6.5, has the meaning set forth in IC 16-21-6.5-5;**
- and**
- (3) **IC 16-24.5-6, has the meaning set forth in IC 16-24.5-6-4.**

SECTION 13. IC 16-21-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The governing board of the hospital is the supreme authority in the hospital and is responsible for the following:

- (1) The management, operation, and control of the hospital.
- (2) The appointment, reappointment, and assignment of privileges to members of the medical staff, with the advice and recommendations of the medical staff, consistent with the individual training, experience, and other qualifications of the medical staff.
- (3) Establishing requirements for appointments to and continued service on the hospital's medical staff, consistent with the appointee's individual training, experience, and other qualifications, including the following requirements:
  - (A) Proof that a medical staff member ~~has qualified as a health care provider under IC 16-18-2-163(a)~~ **is a qualified provider (as defined in IC 34-18-2-24.5).**
  - (B) The performance of patient care and related duties in a manner that is not disruptive to the delivery of quality medical

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care in the hospital setting.

(C) Standards of quality medical care that recognize the efficient and effective utilization of hospital resources, developed by the medical staff.

(4) Upon recommendation of the medical staff, establishing protocols within the requirements of this chapter and 410 IAC 15-1.2-1 for the admission, treatment, and care of patients with extended lengths of stay.

SECTION 14. IC 16-21-2-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5.5. The governing board of an ambulatory outpatient surgical center licensed as an ambulatory outpatient surgical center under this article is the supreme authority in the ambulatory outpatient surgical center and is responsible for the following:**

(1) The management, operation, and control of the center.

(2) The appointment, reappointment, and assignment of privileges to members of the medical staff, with the advice and recommendations of the medical staff, consistent with the individual training, experience, and other qualifications of the medical staff.

(3) Establishing requirements for appointments to, and continued service on, the center's medical staff, consistent with the appointee's individual training, experience, and other qualifications, including the following requirements:

(A) Proof that a medical staff member is a qualified provider (as defined in IC 34-18-2-24.5).

(B) The performance of patient care and related duties in a manner that is not disruptive to the delivery of quality medical care in the center.

(C) Standards of quality medical care that recognize the efficient and effective utilization of hospital resources, developed by the medical staff.

SECTION 15. IC 16-21-2-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 6.5. (a) The governing board of an ambulatory outpatient surgical center licensed as an ambulatory outpatient surgical center under this article shall report, in writing, to the medical licensing board of Indiana the results and circumstances of:**

(1) a final;

(2) a substantive; and

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(3) an adverse;  
disciplinary action taken by the governing board concerning a  
physician on the medical staff or an applicant for the medical staff  
if the action results in the voluntary resignation or the involuntary  
resignation, termination, nonappointment, revocation, or  
significant reduction of clinical privileges or staff membership.

(b) The report under subsection (a) may not be made for a  
nondisciplinary resignation or for a minor disciplinary action.

(c) The governing board and the governing board's:

(1) employees;

(2) agents;

(3) consultants; and

(4) attorneys;

have absolute immunity from civil liability for a communication,  
discussion, action taken, or report made concerning the  
disciplinary action or the investigation taken or contemplated if the  
report or action is made in good faith and without malice.

SECTION 16. IC 16-21-2-14.5 IS ADDED TO THE INDIANA  
CODE AS A NEW SECTION TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2005]: Sec. 14.5. (a) As used in this chapter,  
"freestanding" means:

(1) physically separate; or

(2) separated by a fire wall and a door;

from an existing structure. The term does not include a structure  
or a location that is at least partially enclosed inside an existing  
structure.

(b) Not later than January 1, 2006, the office of the state fire  
marshal, after consulting with the state department, shall develop  
and adopt the following:

(1) A:

(A) building code; and

(B) design standard;

requirement for a freestanding ambulatory outpatient  
surgical center that is constructed, remodeled, or expanded  
after June 30, 2006. The building codes and design standards  
may not distinguish between a freestanding ambulatory  
outpatient surgical center that is owned or operated by a  
hospital and an ambulatory outpatient surgical center that is  
not owned or operated by a hospital.

(2) A:

(A) building code; and

(B) design standard;

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1 requirement for a freestanding diagnostic imaging facility  
 2 that is constructed, remodeled, or expanded after June 30,  
 3 2006. The building codes and design standards may not  
 4 distinguish between a freestanding diagnostic imaging facility  
 5 that is owned or operated by a hospital and a diagnostic  
 6 imaging facility that is not owned or operated by a hospital.

7 (c) The state or a unit (as defined in IC 36-1-2-23) may not  
 8 subject a:

- 9 (1) freestanding ambulatory outpatient surgical center; or  
 10 (2) freestanding diagnostic imaging facility;

11 to building codes or design standards other than the codes and  
 12 standards developed under this section. However, this section does  
 13 not prohibit a unit from establishing and enforcing zoning  
 14 requirements under IC 36-7.

15 (d) A hospital that has complied with the building codes and  
 16 design standards adopted under subsection (b) may not be  
 17 prohibited from doing the following solely because the hospital  
 18 complied with subsection (b):

- 19 (1) Operating a freestanding ambulatory outpatient surgical  
 20 center or diagnostic imaging facility under the hospital's  
 21 license issued under IC 16-21-2 if the hospital:

- 22 (A) constructed;  
 23 (B) remodeled; or  
 24 (C) expanded;

25 the ambulatory outpatient surgical center or diagnostic  
 26 imaging facility using the codes and standards required under  
 27 this section.

- 28 (2) Providing health care services in a freestanding  
 29 ambulatory outpatient surgical center or diagnostic imaging  
 30 facility to a:

- 31 (A) Medicare patient, using the hospital's Medicare  
 32 provider number; or  
 33 (B) Medicaid patient, using the hospital's Medicaid  
 34 provider number.

35 (e) The state department may not require a hospital to follow  
 36 hospital:

- 37 (1) building codes;  
 38 (2) design standards; or  
 39 (3) related structural requirements;

40 when the hospital is building a freestanding nonhospital health  
 41 care service facility, including a clinic or health center recognized  
 42 by the federal Centers for Medicare and Medicaid Services.

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SECTION 17. IC 16-21-6.5 IS ADDED TO THE INDIANA CODE  
AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
JULY 1, 2005]:

**Chapter 6.5. Ambulatory Outpatient Surgical Center Financial  
Disclosure Law**

**Sec. 1.** This chapter applies to an ambulatory outpatient surgical  
center licensed as an ambulatory outpatient surgical center under  
this article.

**Sec. 2.** As used in this chapter, "contractual allowances" means  
the difference between revenue at established rates and amounts  
realizable from third party payors under contractual agreements.

**Sec. 3.** As used in this chapter, "education related costs" means  
the unreimbursed cost to an ambulatory outpatient surgical center  
of providing, funding, or otherwise financially supporting  
educational benefits, services, and programs, including:

- (1) education of physicians, nurses, technicians, and other  
medical professionals and health care providers;
- (2) provision of scholarships and funding to medical schools,  
colleges, and universities for health professions education;
- (3) education of patients concerning diseases and home care  
in response to community needs; and
- (4) community health education through informational  
programs, publications, and outreach activities in response to  
community needs.

**Sec. 4.** As used in this chapter, "gross patient revenue" means  
patient revenue from services to patients of an ambulatory  
outpatient surgical center, including payments received from or on  
behalf of individual patients.

**Sec. 5.** As used in this chapter, "net patient revenue" means  
gross patient revenue less deductions for contractual adjustments,  
bad debts, and charity.

**Sec. 6. (a)** Each ambulatory outpatient surgical center shall file  
with the state department a report for the preceding fiscal year not  
later than one hundred twenty (120) days after the end of the  
center's fiscal year. The state department shall grant an extension  
of the time to file the report if the ambulatory outpatient surgical  
center shows good cause for the extension. The report must contain  
the following:

- (1) A copy of the center's balance sheet, including a statement  
describing the center's total assets and total liabilities.
- (2) A copy of the center's income statement.
- (3) A statement of changes in financial position.

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- (4) A statement of changes in fund balance.
  - (5) Accountant notes pertaining to the report.
  - (6) A copy of the center's Medicare cost report, if any, that is required to be filed under the Medicare program and any other appropriate utilization and financial reports required to be filed under federal law.
  - (7) Net patient revenue.
  - (8) A statement including:
    - (A) Medicare gross revenue;
    - (B) Medicaid gross revenue;
    - (C) other revenue from state programs;
    - (D) revenue from local government programs;
    - (E) local tax support;
    - (F) charitable contributions;
    - (G) other third party payments;
    - (H) contractual allowance;
    - (I) other deductions from revenue;
    - (J) charity care provided;
    - (K) itemization of bad debt expense; and
    - (L) an estimation of the unreimbursed cost of subsidized health services.
  - (9) A statement itemizing donations.
  - (10) A statement describing the total cost of reimbursed and unreimbursed research.
  - (11) A statement describing the total cost of reimbursed and unreimbursed education separated into the following categories:
    - (A) Education of physicians, nurses, technicians, and other medical professionals and health care providers.
    - (B) Scholarships and funding to medical schools, colleges, and universities for health professions education.
    - (C) Education of patients concerning diseases and home care in response to community needs.
    - (D) Community health education through informational programs, publications, and outreach activities in response to community needs.
    - (E) Other educational services resulting in education related costs.
- (b) The information in the report filed under subsection (a) must be provided from reports or audits certified by an independent certified public accountant or, if applicable, by the state board of accounts.

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1        **Sec. 7. If further fiscal information is necessary to verify the**  
 2 **accuracy of any information contained in a report filed under**  
 3 **section 6 of this chapter, the state department may require an**  
 4 **ambulatory outpatient surgical center to produce the records**  
 5 **necessary to verify that information.**

6        **Sec. 8. In addition to the report filed under section 6 of this**  
 7 **chapter, each center shall, not more than one hundred twenty (120)**  
 8 **days after the end of each calendar quarter, file with the state**  
 9 **department or the state department's designated contractor**  
 10 **patient information at the patient level, in a format prescribed by**  
 11 **the state health commissioner, including the following:**

12        **(1) The patient's:**

13            **(A) diagnoses and procedures performed during the**  
 14 **patient's admission to the center as an outpatient;**

15            **(B) dates of care;**

16            **(C) date of birth;**

17            **(D) gender;**

18            **(E) race;**

19            **(F) admission source;**

20            **(G) payor, including:**

21                **(i) Medicare;**

22                **(ii) Medicaid;**

23                **(iii) a local government program;**

24                **(iv) commercial insurance;**

25                **(v) self pay; and**

26                **(vi) charity care.**

27            **(H) The total charges for the patient's outpatient stay at**  
 28 **the center.**

29            **(I) The ZIP code of the patient's residence.**

30        **Sec. 9. (a) The report filed under section 6 of this chapter:**

31            **(1) may not contain information that personally identifies a**  
 32 **patient or a consumer of health services; and**

33            **(2) must be open to public inspection.**

34        **(b) The state department shall provide copies of the reports filed**  
 35 **under section 6 of this chapter to the public upon request at the**  
 36 **state department's actual cost.**

37        **(c) The following apply to information that is filed under section**  
 38 **8 of this chapter:**

39            **(1) Information filed with the state department's designated**  
 40 **contractor:**

41                **(A) is confidential; and**

42                **(B) must be transferred by the contractor to the state**

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- 1 department in a format determined by the state  
2 department.
- 3 (2) Information filed with the state department or transferred  
4 to the state department by the state department's designated  
5 contractor is not confidential, except information that:
- 6 (A) personally identifies; or  
7 (B) may be used to personally identify;  
8 a patient or consumer of health services may not be disclosed  
9 to a third party other than to an ambulatory outpatient  
10 surgical center that has filed reports and information  
11 required under sections 6 and 8 of this chapter.
- 12 (d) An analysis completed by the state department of  
13 information that is filed under section 8 of this chapter:
- 14 (1) may not contain information that personally identifies or  
15 may be used to personally identify a patient or consumer of  
16 health services, unless the information is determined by the  
17 state department to be necessary for a public health activity;  
18 (2) must be open to public inspection; and  
19 (3) must be provided to the public by the state department  
20 upon request at the state department's actual cost.
- 21 Sec. 10. The state department may, through the attorney  
22 general, seek to compel compliance with this chapter through  
23 injunctive relief.
- 24 Sec. 11. (a) The state department shall adopt rules under  
25 IC 4-22-2 necessary to carry out this chapter.
- 26 (b) The rules adopted under this section must include rules that  
27 establish a uniform system for completing the reports and  
28 information required under sections 6 and 8 of this chapter.
- 29 (c) The rules adopted under this section must provide that, to  
30 the greatest extent possible, copies of reports required to be filed  
31 with federal, state, and local agencies may be used by centers in  
32 completing the reports and information required by this chapter.
- 33 Sec. 12. Each year the state health commissioner or the  
34 commissioner's designee shall make a compilation of the data  
35 obtained from the reports and information required under sections  
36 6 and 8 of this chapter and report in an electronic format under  
37 IC 5-14-6 the findings and recommendations to the general  
38 assembly not later than December 1 of the year the reports and  
39 information are filed. However, the commissioner is not required  
40 to incorporate a report or information that is required to be filed  
41 by a center with the state department before August 1, but shall  
42 incorporate the report data in the report to be made the following

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year.

Sec. 13. (a) The state department shall annually publish a consumer guide to Indiana ambulatory outpatient surgical centers. The state department shall compile the data for the consumer guide from the relevant data in reports and information required to be filed under sections 6 and 8 of this chapter and publish the data in an understandable format that assists the consuming public in making both financial and utilization comparisons between centers.

(b) The state department shall, upon request, provide to the public at the state department's actual cost copies of the consumer guide to Indiana ambulatory outpatient surgical centers published under subsection (a).

Sec. 14. Any person who is a custodian of confidential data at the state department and who knowingly or intentionally:

(1) discloses, distributes, or sells confidential data obtained under this chapter; or

(2) identifies a specific patient or consumer of health services in violation of section 9 of this chapter;

commits a Class B misdemeanor.

SECTION 18. IC 16-21-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A ~~nonprofit~~ hospital licensed under IC 16-21-2 shall develop:

(1) an organizational mission statement that identifies the hospital's commitment to serving the health care needs of the community; and

(2) a community benefits plan defined as an operational plan for serving the community's health care needs that:

(A) sets out goals and objectives for providing community benefits that include charity care and government sponsored indigent health care; and

(B) identifies the populations and communities served by the hospital.

SECTION 19. IC 16-21-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Each ~~nonprofit~~ hospital shall prepare an annual report of the community benefits plan. The report must include, in addition to the community benefits plan itself, the following background information:

(1) The hospital's mission statement.

(2) A disclosure of the health care needs of the community that were considered in developing the hospital's community benefits plan.

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(3) A disclosure of the amount and types of community benefits actually provided, including charity care. Charity care must be reported as a separate item from other community benefits.

(b) Each ~~nonprofit~~ hospital shall annually file a report of the community benefits plan with the state department. The report must be filed not later than one hundred twenty (120) days after the close of the hospital's fiscal year.

(c) Each ~~nonprofit~~ hospital shall prepare a statement that notifies the public that the annual report of the community benefits plan is:

(1) public information;

(2) filed with the state department; and

(3) available to the public on request from the state department.

This statement shall be posted in prominent places throughout the hospital, including, **if applicable**, the emergency room waiting area, and the admissions office waiting area. The statement shall also be printed in the hospital patient guide or other material that provides the patient with information about the admissions criteria of the hospital.

(d) Each ~~nonprofit~~ hospital shall develop a written notice about any charity care program operated by the hospital and how to apply for charity care. The notice must be in appropriate languages if possible. The notice must also be conspicuously posted in the following areas:

(1) The general waiting area.

(2) The waiting area for emergency services, **if applicable**.

(3) The business office.

(4) Any other area that the hospital considers an appropriate area in which to provide notice of a charity care program.

SECTION 20. IC 16-21-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The state department may assess a civil penalty against a ~~nonprofit~~ hospital that fails to make a report of the community benefits plan as required under this chapter. The penalty may not exceed one thousand dollars (\$1,000) for each day a report is delinquent after the date on which the report is due. No penalty may be assessed against a hospital under this section until thirty (30) business days have elapsed after written notification to the hospital of its failure to file a report.

SECTION 21. IC 16-21-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The rights and remedies provided for in this chapter are in addition to other statutory or common law rights or remedies available to the state or a ~~nonprofit~~ hospital.

SECTION 22. IC 16-21-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2005]:

**Chapter 9.5. Charitable Care by Ambulatory Outpatient Surgical Centers**

**Sec. 1.** This chapter applies to an ambulatory outpatient surgical center that is licensed as an ambulatory outpatient surgical center under IC 16-21.

**Sec. 2. (a)** As used in this chapter, "community benefits" means the unreimbursed cost to an ambulatory outpatient surgical center of providing:

- (1) charity care;
- (2) government sponsored indigent health care;
- (3) donations;
- (4) education;
- (5) government sponsored program services;
- (6) research; and
- (7) subsidized health services.

**(b)** The term does not include the cost to the ambulatory outpatient surgical center of paying any taxes or other governmental assessments.

**Sec. 3.** As used in this chapter, "government sponsored indigent health care" means the unreimbursed cost to an ambulatory outpatient surgical center for providing health care services to:

- (1) Medicare recipients;
- (2) Medicaid recipients; and
- (3) other:
  - (A) federal;
  - (B) state; or
  - (C) local;

indigent health care programs that base eligibility for the program on financial need.

**Sec. 4.** An ambulatory outpatient surgical center shall develop the following:

- (1) An organizational mission statement that identifies the center's commitment to serving the health care needs of the community.
- (2) A community benefits plan that creates an operational plan for serving the community's health care needs and that:
  - (A) sets out goals and objectives for providing community benefits that include charity care and government sponsored indigent health care; and
  - (B) identifies the populations and communities served by the center.

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1        **Sec. 5. In developing the ambulatory outpatient surgical center's**  
 2 **community benefits plan, a center shall consider the health care**  
 3 **needs of the community as determined by a needs assessment of the**  
 4 **community.**

5        **Sec. 6. The ambulatory outpatient surgical center shall include**  
 6 **at least the following elements in the center's community benefits**  
 7 **plan:**

8            (1) Mechanisms to evaluate the community benefits plan's  
 9 effectiveness, including a method for soliciting the views of the  
 10 communities served by the center.

11          (2) Measurable objectives to be achieved within a specified  
 12 time frame.

13          (3) A budget for the community benefits plan.

14        **Sec. 7. (a) An ambulatory outpatient surgical center shall**  
 15 **prepare an annual report of the center's community benefits plan.**  
 16 **The report must include a copy of the community benefits plan as**  
 17 **well as the following background information:**

18            (1) The ambulatory outpatient surgical center's mission  
 19 statement.

20            (2) A disclosure of the health care needs of the community  
 21 that were considered in developing the ambulatory outpatient  
 22 surgical center's community benefits plan.

23            (3) A disclosure of the:

24                  (A) amount; and

25                  (B) types;

26 of community benefits, including charity care, actually  
 27 provided by the center. Charity care must be reported as a  
 28 separate item from other community benefits.

29        (b) An ambulatory outpatient surgical center shall annually file  
 30 the community benefits plan report with the state department. The  
 31 report must be filed not later than one hundred twenty (120) days  
 32 after the close of the ambulatory outpatient surgical center's fiscal  
 33 year.

34        (c) An ambulatory outpatient surgical center shall prepare a  
 35 statement that notifies the public that the community benefits plan  
 36 annual report is:

37            (1) public information;

38            (2) filed with the state department; and

39            (3) available to the public upon request from the state  
 40 department.

41        **This statement must be posted in prominent places throughout the**  
 42 **ambulatory outpatient surgical center, including the center's**

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1 general waiting area and the center's admissions office waiting  
2 area.

3 (d) An ambulatory outpatient surgical center shall develop a  
4 written notice about any charity care program operated by the  
5 center and how to apply for the charity care. The notice must be:

6 (1) in appropriate languages, if possible; and

7 (2) conspicuously posted in the center's general waiting area  
8 and the center's business office.

9 Sec. 8. (a) The state department may assess a civil penalty  
10 against an ambulatory outpatient surgical center that fails to make  
11 a community benefits plan report as required by this chapter.

12 (b) The civil penalty in subsection (a) may not exceed one  
13 thousand dollars (\$1,000) for each day the community benefits plan  
14 report is delinquent after the date the report is due.

15 (c) A civil penalty may not be assessed under this section until  
16 thirty (30) business days after the state department has notified the  
17 ambulatory outpatient surgical center of the center's failure to file  
18 the community benefits plan report.

19 Sec. 9. The rights and remedies provided for in this chapter are  
20 in addition to other statutory or common law rights or remedies  
21 available to:

22 (1) the state; or

23 (2) the ambulatory outpatient surgical center.

24 SECTION 23. IC 16-24.5 IS ADDED TO THE INDIANA CODE  
25 AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY  
26 1, 2005]:

## 27 ARTICLE 24.5. DIAGNOSTIC IMAGING FACILITIES

### 28 Chapter 1. Diagnostic Imaging Facility Council

29 Sec. 1. (a) The diagnostic imaging facility council is created.

30 (b) The council consists of seven (7) members appointed by the  
31 governor as follows:

32 (1) One (1) individual who is a physician who:

33 (A) is licensed under IC 25-22.5; and

34 (B) has a medical practice that concentrates in diagnostic  
35 imaging services and diagnostic imaging procedures.

36 (2) One (1) individual who is a registered nurse who is:

37 (A) licensed under IC 25-23; and

38 (B) experienced in providing acute care services.

39 (3) Three (3) individuals who are engaged in the  
40 administration of diagnostic imaging facilities.

41 (4) The state health commissioner.

42 (5) One (1) individual who is not associated with diagnostic

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imaging facilities, except as a consumer.

If one (1) or more of the individuals described in subdivision (3) is not available to serve on the council, the governor may fill the position with an individual who is engaged in the administration or management of other health care settings where diagnostic imaging services are routinely provided to a patient.

(c) Except for the members of the council appointed under subsection (b)(3), a member of the council may not:

(1) have a pecuniary interest in the operation of; or

(2) provide professional services through employment or under contract to;

a facility licensed under this article.

Sec. 2. (a) All appointments to the council are for four (4) years, beginning July 1 of the year of appointment, except that in case of a vacancy the appointee shall serve for the remainder of the unexpired term. A vacancy must be filled from the group represented by the outgoing member.

(b) The governor shall appoint a chairperson and a chairperson pro tempore from the council members.

Sec. 3. A member of the council who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). A member is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties, as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 4. (a) The state health commissioner shall call the first meeting of the council within thirty (30) days after the appointment of the members of the council.

(b) The council shall meet at least two (2) times each year on dates fixed by the council.

(c) Four (4) members constitute a quorum for the transaction of business.

Sec. 5. At the first meeting of the calendar year, the council shall elect a secretary from the council members. The secretary:

(1) serves for a term of one (1) year; and

(2) shall keep a record of the council meetings.

Sec. 6. At the request of the council, the state department may obtain the services of experts or other persons to assist the council in the formulation of policy or in conducting the council's business.

Sec. 7. (a) Except as provided in subsection (b), the council shall

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propose rules to the executive board and the executive board may adopt rules under IC 4-22-2 necessary to protect the health, safety, rights, and welfare of patients, including the following:

(1) Rules concerning the operation and management of diagnostic imaging facilities.

(2) Rules establishing standards for equipment, facilities, and staffing required for efficient and quality care of patients.

(3) Rules identifying other diagnostic imaging services and procedures for purposes of this article.

(4) Rules necessary to implement this article.

(b) The state department may request the council to propose a new rule or an amendment to an existing rule necessary to protect the health, safety, rights, and welfare of patients. If the council does not propose a rule within ninety (90) days after the state department's request, the state department may propose a rule.

(c) The state department shall consider the rules proposed by the council and may adopt, modify, remand, or reject specific rules or parts of rules proposed by the council.

Sec. 8. (a) The state department shall perform licensure inspections of a diagnostic imaging facility regularly and in accordance with rules adopted under this article. The state department shall make all health inspections and sanitation inspections, including an inspection in response to an alleged breach of this article or a breach of rules adopted under this article.

(b) The office of the state fire marshal or the fire marshal's agent shall make all fire safety inspections of a diagnostic imaging facility licensed under this article.

(c) The council may provide for other inspections necessary to implement this article.

(d) An employee of the state department who knowingly or intentionally informs a diagnostic imaging facility of the date of an unannounced inspection shall be:

(1) suspended for five (5) days for a first offense; and

(2) dismissed for a subsequent offense.

(e) A report of an inspection must be in writing and sent to the diagnostic imaging facility.

(f) The report of an inspection and records relating to the inspection may not be released to the public until the conditions set forth in IC 16-19-3-25 are satisfied.

## **Chapter 2. Licensure of Diagnostic Imaging Facilities**

Sec. 1. This article applies to all diagnostic imaging facilities.

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1       **Sec. 2. The state department shall:**

2           (1) license; and

3           (2) regulate;

4       **a diagnostic imaging facility.**

5       **Sec. 3. (a) The council may investigate and determine if an**  
 6       **existing or proposed institution, agency, facility, entity, or other**  
 7       **health care setting is covered by this chapter.**

8       **(b) A decision by the council under subsection (a) is subject to**  
 9       **review under IC 4-21.5.**

10       **Sec. 4. The state department shall administer this chapter with**  
 11       **the advice of the council.**

12       **Sec. 5. The governing board of a diagnostic imaging facility is:**

13           (1) the supreme authority in the facility; and

14           (2) responsible for the following:

15           **(A) The:**

16               (i) management;

17               (ii) operation; and

18               (iii) control;

19           **of the facility.**

20           **(B) The:**

21               (i) appointment;

22               (ii) reappointment; and

23               (iii) assignment;

24           **of privileges to members of the facility's medical staff, with**  
 25           **the advice and recommendations of the medical staff and**  
 26           **consistent with the individual training, experience, and**  
 27           **other qualifications of the medical staff.**

28           **(C) The establishment of requirements for appointments**  
 29           **and continued service on the facility's medical staff that**  
 30           **are consistent with necessary training, experience, and**  
 31           **other qualifications, including the following requirements:**

32               (i) Proof that a medical staff member is a qualified  
 33               provider (as defined in IC 34-18-2-24.5).

34               (ii) The performance of patient care and related duties in  
 35               a manner that is not disruptive to the delivery of quality  
 36               medical care in the facility setting.

37               (iii) Standards of quality medical care that recognize the  
 38               efficient and effective utilization of facility resources  
 39               developed by the medical staff.

40               (iv) Established protocols, upon recommendation of the  
 41               medical staff, that comply with the requirements under  
 42               this chapter and a rule adopted under this article.

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1       **Sec. 6. (a) The governing board shall prepare a written report**  
 2 **to the medical licensing board of Indiana of:**

- 3           (1) a final;  
 4           (2) a substantive; and  
 5           (3) an adverse;

6 **disciplinary action that the board has taken regarding a physician**  
 7 **on the facility's medical staff or an applicant for the medical staff**  
 8 **if the action results in voluntary or involuntary termination,**  
 9 **nonappointment, revocation, or a significant reduction of clinical**  
 10 **privileges or staff membership.**

11       **(b) The report described in subsection (a) may not be made for**  
 12 **nondisciplinary resignations or for minor disciplinary action.**

13       **(c) The governing board and the governing board's:**

- 14           (1) employees;  
 15           (2) agents;  
 16           (3) consultants; and  
 17           (4) attorneys;

18 **have absolute immunity from civil liability for a communication,**  
 19 **discussion, action taken, or report made concerning the**  
 20 **disciplinary action or investigation taken or contemplated if the**  
 21 **report or action is made in good faith and without malice.**

22       **Sec. 7. A diagnostic imaging facility shall organize a medical**  
 23 **staff for the facility. The medical staff of the diagnostic imaging**  
 24 **facility is responsible to the governing board for the following:**

- 25           (1) The clinical and scientific work of the facility.  
 26           (2) Advice regarding professional matters and policies.  
 27           (3) Review of the professional practices in the facility for the  
 28           purpose of improving the care of patients in the facility,  
 29           including the following:  
 30               (A) The quality and necessity of the care provided.  
 31               (B) The preventability of complications occurring in the  
 32           facility.

33       **Sec. 8. The members of a medical staff committee who conduct**  
 34 **a retrospective medical review have absolute immunity from civil**  
 35 **liability for the following:**

- 36           (1) Communications made in committee meetings.  
 37           (2) Reports and recommendations made by the committee  
 38           arising from deliberations by the committee to the governing  
 39           board of the diagnostic imaging facility or another duly  
 40           authorized medical staff committee.

41       **Sec. 9. This chapter does not authorize:**

- 42           (1) a person;

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(2) a:

(A) state;

(B) county; or

(C) local;

governmental unit;

(3) a division;

(4) a department;

(5) a board; or

(6) an agency;

to engage in the practice of medicine. However, this chapter does not prohibit the performance of health care services by a diagnostic imaging facility employee in a facility when the performance is delegated or ordered by a licensed health care provider if the services performed are within the health care provider's scope of practice and the competency of the employee, as determined by criteria adopted by the governing board upon consultation with the medical staff.

Sec. 10. The following must obtain a license from the state health commissioner under this article before establishing, conducting, operating, or maintaining a diagnostic imaging facility:

(1) A person.

(2) A state, county, or local governmental unit.

(3) A division, a department, a board, or an agency of a:

(A) state;

(B) county; or

(C) local;

governmental unit.

Sec. 11. (a) An applicant shall submit an application for a license on a form prescribed by the state department showing that the applicant is:

(1) of reputable and responsible character; and

(2) able to comply with:

(A) the minimum standards for a diagnostic imaging facility; and

(B) rules adopted under this chapter.

(b) The application described in subsection (a) must contain the following additional information:

(1) The name of the applicant.

(2) The location of the facility.

(3) The name of the person to be in charge of the facility.

(4) Other information required by the state department.

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1       **Sec. 12. (a) The council shall establish by rule under IC 4-22-2**  
 2       **a licensing fee to be charged for an application under this chapter.**

3       **(b) An application under this chapter must be accompanied by**  
 4       **the licensing fee established under subsection (a).**

5       **Sec. 13. The state health commissioner may:**

6       **(1) issue a license for an application without further evidence;**

7       **or**

8       **(2) request additional information from the applicant and**  
 9       **conduct an investigation to determine whether a license**  
 10       **should be granted.**

11       **Sec. 14. A license to operate a diagnostic imaging facility:**

12       **(1) expires one (1) year after the date of issuance;**

13       **(2) is not assignable or transferable;**

14       **(3) is issued only for the premises named in the application;**

15       **(4) must be posted in a conspicuous place in the diagnostic**  
 16       **imaging facility; and**

17       **(5) may be renewed each year upon the payment of a renewal**  
 18       **fee in an amount set by the council by rule under IC 4-22-2.**

19       **Sec. 15. A diagnostic imaging facility that provides notice to a**  
 20       **patient concerning a third party billing for a service provided to**  
 21       **the patient shall ensure that the notice:**

22       **(1) conspicuously states that the notice is not a bill;**

23       **(2) does not include a tear off part; and**

24       **(3) is not accompanied by a return mailing envelope.**

### 25       **Chapter 3. Remedies for Violations**

26       **Sec. 1. The state health commissioner may take any of the**  
 27       **following actions on a ground listed in section 2 of this chapter:**

28       **(1) Issue a letter of correction.**

29       **(2) Issue a probationary license.**

30       **(3) Conduct a resurvey.**

31       **(4) Deny renewal of a license.**

32       **(5) Revoke a license.**

33       **(6) Impose a civil penalty in an amount not to exceed ten**  
 34       **thousand dollars (\$10,000).**

35       **Sec. 2. The state health commissioner may take action under**  
 36       **section 1 of this chapter against a diagnostic imaging facility on**  
 37       **any of the following grounds:**

38       **(1) Violating any of the provisions of this article or of the**  
 39       **rules adopted under this article.**

40       **(2) Permitting, aiding, or abetting the commission of an illegal**  
 41       **act in a diagnostic imaging facility.**

42       **(3) Knowingly collecting or attempting to collect from:**

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- 1 (A) a subscriber (as defined in IC 27-13-1-32); or  
 2 (B) an enrollee (as defined in IC 27-13-1-12);  
 3 of a health maintenance organization (as defined in  
 4 IC 27-13-1-19) any amounts that are owed by the health  
 5 maintenance organization.  
 6 (4) Practicing or acting in a manner found by the council to be  
 7 detrimental to the welfare of the patients of a diagnostic  
 8 imaging facility.  
 9 Sec. 3. IC 4-21.5 applies to an action under this chapter.  
 10 Chapter 4. Hearings and Appeals  
 11 Sec. 1. A licensee or an applicant for a license that is aggrieved  
 12 by an action under this article may request review under IC 4-21.5.  
 13 Sec. 2. (a) The state department shall appoint an appeals panel  
 14 consisting of three (3) members as follows:  
 15 (1) One (1) member from the executive board.  
 16 (2) One (1) attorney admitted to the practice of law in  
 17 Indiana.  
 18 (3) One (1) individual with qualifications determined by the  
 19 state department.  
 20 (b) An employee of the state department may not be a member  
 21 of the panel.  
 22 (c) The panel shall conduct proceedings for review of an order  
 23 issued by an administrative law judge under this chapter. The  
 24 panel is the ultimate authority under IC 4-21.5.  
 25 Chapter 5. Penalties  
 26 Sec. 1. The state department shall investigate a report of an  
 27 unlicensed diagnostic imaging facility and report the findings to the  
 28 attorney general. The attorney general may seek any of the  
 29 following:  
 30 (1) An injunction in a court of jurisdiction in the county in  
 31 which the unlicensed facility is located or in the circuit or  
 32 superior court of Marion County.  
 33 (2) Relief under IC 4-21.5, including a civil penalty not to  
 34 exceed an amount of twenty-five thousand dollars (\$25,000)  
 35 for each day of unlicensed operation.  
 36 (3) Criminal penalties as provided in section 3 of this chapter.  
 37 Sec. 2. An agency, a building, an institution, a place, a vehicle,  
 38 or a motor vehicle may not be called a diagnostic imaging facility  
 39 if the agency, building, institution, place, vehicle, or motor vehicle  
 40 is not a diagnostic imaging facility.  
 41 Sec. 3. Except for a hospital licensed under IC 16-21, a person  
 42 who:

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1 (1) operates; or  
 2 (2) advertises;  
 3 the operation of an agency, a building, an institution, a place, a  
 4 vehicle, or a motor vehicle that is required to be licensed under this  
 5 article and that is not licensed under this article commits a Class  
 6 A misdemeanor.

7 Chapter 6. Diagnostic Imaging Facility Financial Disclosure  
 8 Law

9 Sec. 1. As used in this chapter, "contractual allowances" means  
 10 the difference between revenue at established rates and amounts  
 11 realizable from third party payors under contractual agreements.

12 Sec. 2. As used in this chapter, "education related costs" means  
 13 the unreimbursed cost to a diagnostic imaging facility of providing,  
 14 funding, or otherwise financially supporting educational benefits,  
 15 services, and programs, including:

- 16 (1) education of physicians, nurses, technicians, and other  
 17 medical professionals and health care providers;
- 18 (2) provision of scholarships and funding to medical schools,  
 19 colleges, and universities for health professions education;
- 20 (3) education of patients concerning diseases and home care  
 21 in response to community needs; and
- 22 (4) community health education through informational  
 23 programs, publications, and outreach activities in response to  
 24 community needs.

25 Sec. 3. As used in this chapter, "gross patient revenue" means  
 26 patient revenue from services to patients of a diagnostic imaging  
 27 facility, including payments received from or on behalf of  
 28 individual patients.

29 Sec. 4. As used in this chapter, "net patient revenue" means  
 30 gross patient revenue less deductions for contractual adjustments,  
 31 bad debts, and charity.

32 Sec. 5. (a) Each diagnostic imaging facility shall file with the  
 33 state department a report for the preceding fiscal year not later  
 34 than one hundred twenty (120) days after the end of the facility's  
 35 fiscal year. The state department shall grant an extension of the  
 36 time to file the report if the diagnostic imaging facility shows good  
 37 cause for the extension. The report must contain the following:

- 38 (1) A copy of the diagnostic imaging facility's balance sheet,  
 39 including a statement describing the facility's total assets and  
 40 total liabilities.
- 41 (2) A copy of the diagnostic imaging facility's income  
 42 statement.

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- (3) A statement of changes in financial position.**
  - (4) A statement of changes in fund balance.**
  - (5) Accountant notes pertaining to the report.**
  - (6) A copy of the diagnostic imaging facility's Medicare cost report, if any, that is required to be filed under the Medicare program and any other appropriate utilization and financial reports that is required to be filed under federal law.**
  - (7) Net patient revenue.**
  - (8) A statement including:**
    - (A) Medicare gross revenue;**
    - (B) Medicaid gross revenue;**
    - (C) other revenue from state programs;**
    - (D) revenue from local government programs;**
    - (E) local tax support;**
    - (F) charitable contributions;**
    - (G) other third party payments;**
    - (H) contractual allowance;**
    - (I) other deductions from revenue;**
    - (J) charity care provided;**
    - (K) itemization of bad debt expense; and**
    - (L) an estimation of the unreimbursed cost of subsidized health services.**
  - (9) A statement itemizing donations.**
  - (10) A statement describing the total cost of reimbursed and unreimbursed research.**
  - (11) A statement describing the total cost of reimbursed and unreimbursed education separated into the following categories:**
    - (A) Education of physicians, nurses, technicians, and other medical professionals and health care providers.**
    - (B) Scholarships and funding to medical schools, colleges, and universities for health professions education.**
    - (C) Education of patients concerning diseases and home care in response to community needs.**
    - (D) Community health education through informational programs, publications, and outreach activities in response to community needs.**
    - (E) Other educational services resulting in education related costs.**
- (b) The information in the report filed under subsection (a) must be provided from reports or audits certified by an independent certified public accountant or, if applicable, by the state board of**

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accounts.

Sec. 6. If further fiscal information is necessary to verify the accuracy of any information contained in the report filed under section 5 of this chapter, the state department may require the diagnostic imaging facility to produce the records necessary to verify that information.

Sec. 7. In addition to the report filed under section 5 of this chapter, each diagnostic imaging facility shall, not more than one hundred twenty (120) days after the end of each calendar quarter, file with the state department or the state department's designated contractor patient information at the patient level, in a format prescribed by the state health commissioner, including the following:

(1) The patient's:

(A) diagnoses, services, and procedures performed during the patient's care at the facility;

(B) date of care at the facility;

(C) date of birth;

(D) gender;

(E) race;

(F) referral source;

(G) payor, including:

(i) Medicare;

(ii) Medicaid;

(iii) a local government program;

(iv) commercial insurance;

(v) self pay; and

(vi) charity care.

(H) The total charges for the patient's care at the facility.

(I) The ZIP code of the patient's residence.

Sec. 8. (a) The report filed under section 5 of this chapter:

(1) may not contain information that personally identifies a patient or a consumer of health services; and

(2) must be open to public inspection.

(b) The state department shall provide copies of the report filed under section 5 of this chapter to the public upon request at the state department's actual cost.

(c) The following apply to information that is filed under section 7 of this chapter:

(1) Information filed with the state department's designated contractor:

(A) is confidential; and

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(B) must be transferred by the contractor to the state department in a format determined by the state department.

(2) Information filed with the state department or transferred to the state department by the state department's designated contractor is not confidential, except information that:

(A) personally identifies; or

(B) may be used to personally identify;

a patient or consumer of health services may not be disclosed to a third party other than to a diagnostic imaging facility that has filed current reports and information required under sections 5 and 7 of this chapter.

(d) An analysis completed by the state department of information that is filed under section 7 of this chapter:

(1) may not contain information that personally identifies or may be used to personally identify a patient or consumer of health services, unless the information is determined by the state department to be necessary for a public health activity;

(2) must be open to public inspection; and

(3) must be provided to the public by the state department upon request at the state department's actual cost.

Sec. 9. The state department may, through the attorney general, seek to compel compliance with this chapter through injunctive relief.

Sec. 10. (a) The state department shall adopt rules under IC 4-22-2 necessary to carry out this chapter.

(b) The rules adopted under this section must include rules that establish a uniform system for completing the reports and information required under sections 5 and 7 of this chapter.

(c) The rules adopted under this section must provide that, to the greatest extent possible, copies of reports required to be filed with federal, state, and local agencies may be used by diagnostic imaging facilities in completing the reports and information required by this chapter.

Sec. 11. Each year the state health commissioner or the commissioner's designee shall make a compilation of the data obtained from the reports and information required under sections 5 and 7 of this chapter and report in an electronic format under IC 5-14-6 the findings and recommendations to the general assembly not later than December 1 of the year the reports are filed. However, the commissioner is not required to incorporate a report that is required to be filed by a center with the state

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department less than one hundred twenty (120) days before December 1, but shall incorporate the report data in the report to be made the following year.

Sec. 12. (a) The state department shall annually publish a consumer guide to Indiana diagnostic imaging facilities. The state department shall compile the data for the consumer guide from the relevant data in reports and information required to be filed under sections 5 and 7 of this chapter and publish the data in an understandable format that assists the consuming public in making both financial and utilization comparisons between diagnostic imaging facilities.

(b) The state department shall, upon request, provide to the public, at the state department's actual cost, copies of the consumer guide to Indiana diagnostic imaging facilities published under subsection (a).

Sec. 13. Any person who is a custodian of confidential data at the state department and who knowingly or intentionally:

(1) discloses, distributes, or sells confidential data obtained under this chapter; or

(2) identifies a specific patient or consumer of health services in violation of section 8 of this chapter;

commits a Class B misdemeanor.

#### Chapter 7. Charitable Care by a Diagnostic Imaging Facility

Sec. 1. (a) As used in this chapter, "community benefits" means the unreimbursed cost to a diagnostic imaging facility of providing:

- (1) charity care;
- (2) government sponsored indigent health care;
- (3) donations;
- (4) education;
- (5) government sponsored program services;
- (6) research; and
- (7) subsidized health services.

(b) The term does not include the cost to the diagnostic imaging facility of paying any taxes or other governmental assessments.

Sec. 2. As used in this chapter, "government sponsored indigent health care" means the unreimbursed cost to a diagnostic imaging facility for providing health care services to:

- (1) Medicare recipients;
- (2) Medicaid recipients; and
- (3) other:
  - (A) federal;
  - (B) state; or

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(C) local;  
indigent health care programs that base eligibility for the  
program on financial need.

**Sec. 3. A diagnostic imaging facility shall develop the following:**

(1) An organizational mission statement that identifies the  
facility's commitment to serving the health care needs of the  
community.

(2) A community benefits plan that creates an operational  
plan for serving the community's health care needs and that:

(A) sets out goals and objectives for providing community  
benefits that include charity care and government  
sponsored indigent health care; and

(B) identifies the populations and communities served by  
the facility.

**Sec. 4. In developing the facility's community benefits plan, the  
diagnostic imaging facility shall consider the health care needs of  
the community as determined by a needs assessment of the  
community.**

**Sec. 5. The diagnostic imaging facility shall include at least the  
following elements in the facility's community benefits plan:**

(1) Mechanisms to evaluate the plan's effectiveness, including  
a method for soliciting the views of the communities served by  
the diagnostic imaging facility.

(2) Measurable objectives to be achieved within a specified  
time frame.

(3) A budget for the plan.

**Sec. 6. (a) A diagnostic imaging facility shall prepare an annual  
report of the facility's community benefits plan. The report must  
include a copy of the community benefits plan as well as the  
following background information:**

(1) The diagnostic imaging facility's mission statement.

(2) A disclosure of the health care needs of the community  
that were considered in developing the diagnostic imaging  
facility's community benefits plan.

(3) A disclosure of the:

(A) amount; and

(B) types;

of community benefits, including charity care, actually  
provided by the facility. Charity care must be reported as a  
separate item from other community benefits.

**(b) A diagnostic imaging facility shall annually file the  
community benefits plan report with the state department. The**

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report must be filed not later than one hundred twenty (120) days after the close of the diagnostic imaging facility's fiscal year.

(c) A diagnostic imaging facility shall prepare a statement that notifies the public that the community benefits plan annual report is:

- (1) public information;
- (2) filed with the state department; and
- (3) available to the public upon request from the state department.

This statement must be posted in a prominent place throughout the diagnostic imaging facility, including the facility's general waiting area and the facility's admissions office waiting area.

(d) A diagnostic imaging facility shall develop a written notice about any charity care program operated by the facility and how to apply for the charity care. The notice must be:

- (1) in appropriate languages, if possible; and
- (2) conspicuously posted in the facility's general waiting area and the facility's business office.

Sec. 7. (a) The state department may assess a civil penalty against a diagnostic imaging facility that fails to make a community benefits plan report as required by this chapter.

(b) The civil penalty in subsection (a) may not exceed one thousand dollars (\$1,000) for each day the community benefits plan report is delinquent after the date the report is due.

(c) A civil penalty may not be assessed under this section until thirty (30) business days after the state department has notified the diagnostic imaging facility of the facility's failure to file the community benefits plan report.

Sec. 8. The rights and remedies provided for in this chapter are in addition to other statutory or common law rights or remedies available to:

- (1) the state; or
- (2) the diagnostic imaging facility.

SECTION 24. IC 34-18-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. "Health care provider" means any of the following:

- (1) An individual, a partnership, a limited liability company, a corporation, a professional corporation, a facility, or an institution licensed or legally authorized by this state to provide health care or professional services as a physician, psychiatric hospital, hospital, **ambulatory outpatient surgical center, diagnostic imaging facility**, health facility, emergency ambulance service

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(IC 16-18-2-107), dentist, registered or licensed practical nurse, physician assistant, midwife, optometrist, podiatrist, chiropractor, physical therapist, respiratory care practitioner, occupational therapist, psychologist, paramedic, emergency medical technician-intermediate, emergency medical technician-basic advanced, or emergency medical technician, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.

(2) A college, university, or junior college that provides health care to a student, faculty member, or employee, and the governing board or a person who is an officer, employee, or agent of the college, university, or junior college acting in the course and scope of the person's employment.

(3) A blood bank, community mental health center, community mental retardation center, community health center, or migrant health center.

(4) A home health agency (as defined in IC 16-27-1-2).

(5) A health maintenance organization (as defined in IC 27-13-1-19).

(6) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).

(7) A corporation, limited liability company, partnership, or professional corporation not otherwise qualified under this section that:

(A) as one (1) of its functions, provides health care;

(B) is organized or registered under state law; and

(C) is determined to be eligible for coverage as a health care provider under this article for its health care function.

Coverage for a health care provider qualified under this subdivision is limited to its health care functions and does not extend to other causes of action.

SECTION 25. IC 34-30-2-65.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 65.5. IC 16-21-2-6.5 (Concerning the governing board of an ambulatory outpatient surgical center, and the governing board's employees, agents, consultants, and attorneys for participation in disciplinary actions and investigations).**

SECTION 26. IC 34-30-2-66.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 66.5. IC 16-24.5-2-6 (Concerning**

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1 the governing board of a diagnostic imaging facility and the  
 2 governing board's employees, agents, consultants, and attorneys  
 3 for participation in disciplinary actions and investigations).

4 SECTION 27. IC 34-30-2-66.7 IS ADDED TO THE INDIANA  
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 6 [EFFECTIVE JULY 1, 2005]: **Sec. 66.7. IC 16-24.5-2-8 (Concerning**  
 7 **members of a medical staff committee for conduct related to a**  
 8 **retrospective medical review).**

9 SECTION 28. IC 34-30-15-1 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) All proceedings  
 11 of a peer review committee are confidential.

12 (b) All communications to a peer review committee shall be  
 13 privileged communications.

14 (c) Neither the personnel of a peer review committee nor any  
 15 participant in a committee proceeding shall reveal any content of:

- 16 (1) communications to;
- 17 (2) the records of; or
- 18 (3) the determination of;

19 a peer review committee outside of the peer review committee.

20 (d) However, the governing board of:

- 21 (1) a hospital;
- 22 **(2) an ambulatory outpatient surgical center;**
- 23 **(3) a diagnostic imaging facility;**
- 24 ~~(2)~~ **(4) a professional health care organization;**
- 25 ~~(3)~~ **(5) a preferred provider organization (including a preferred**  
 26 **provider arrangement or reimbursement agreement under**  
 27 **IC 27-8-11); or**
- 28 ~~(4)~~ **(6) a health maintenance organization (as defined in**  
 29 **IC 27-13-1-19) or a limited service health maintenance**  
 30 **organization(as defined in IC 27-13-34-4);**

31 may disclose the final action taken with regard to a professional health  
 32 care provider without violating the provisions of this section.

33 SECTION 29. THE FOLLOWING ARE REPEALED [EFFECTIVE  
 34 JULY 1, 2005]: IC 16-18-2-251; IC 16-21-9-3.

35 SECTION 30. [EFFECTIVE JULY 1, 2005] (a) **As used in this**  
 36 **SECTION, "commission" refers to the allocation of state health**  
 37 **resources commission established by this SECTION.**

38 (b) **As used in this SECTION, "safety net provider" means a**  
 39 **provider of primary medical care or acute hospital services that**  
 40 **provides these services to a significant total number of:**

- 41 **(1) Medicaid recipients under IC 12-15;**
- 42 **(2) medically indigent patients; or**

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1 (3) other individuals for whom care is provided on a charity  
2 basis;

3 in relation to the total number of patients served by the provider.

4 (c) The allocation of state health resources commission is  
5 established.

6 (d) The commission shall study and make recommendations  
7 concerning the state's allocation of health resources, including the  
8 following:

9 (1) Whether a certificate of need program is an effective  
10 means of controlling health care costs and the effect a  
11 certificate of need program would have on the state's:

12 (A) construction industry; and

13 (B) building trades.

14 (2) The factors that contribute to a demonstrated increase in  
15 health care insurance premiums, including a study of the  
16 factors, other than the amount charged by health care  
17 providers for a service, that contribute to the increased  
18 premiums.

19 (3) The effect physician owned health care entities have upon:

20 (A) the financial viability of a nonphysician owned  
21 hospital; and

22 (B) access to health care by the poor and the vulnerable.

23 (4) The feasibility of implementing a program for the  
24 subsidization of safety net providers by new health care  
25 entities.

26 (e) The commission consists of the following eleven (11) voting  
27 members:

28 (1) Two (2) members of the senate appointed by the president  
29 pro tempore of the senate, not more than one (1) of whom is  
30 from the same political party.

31 (2) Two (2) members of the house of representatives  
32 appointed by the speaker of the house of representatives, not  
33 more than one (1) of whom is from the same political party.

34 (3) Seven (7) individuals appointed by the governor, including  
35 the chairperson of the commission as designated by the  
36 governor.

37 (f) The chairperson may create task forces and assign  
38 commission members to the task forces as necessary to achieve the  
39 objectives of the commission.

40 (g) The state health resources allocation advisory committee is  
41 established. At the request of the chairperson of the commission,  
42 the advisory committee shall provide information and assist the

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commission in performing the commission's duties. The chairperson shall appoint members of the advisory committee from the public that represent the following groups:

- (1) Business.
- (2) Labor.
- (3) Health care providers, including mental health care providers.
- (4) Academia.
- (5) Advocacy groups.

(h) The following individuals shall serve on the advisory committee:

- (1) The commissioner of the state department of health.
- (2) The secretary of the office of the secretary of family and social services.
- (3) A member of the governor's executive staff.

(i) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b).

(j) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council.

(k) The affirmative votes of a majority of the voting members appointed to the commission are required for the commission to make any recommendations.

(l) The commission shall issue the commission's recommendations concerning the allocation of state health resources not later than twenty-one (21) calendar months after the commission first meets.

(m) The state department of health shall staff the committee.

(n) The allocation of state health resources fund is established for the purpose of carrying out the commission's work. The fund shall be administered by the state department of health.

(o) The fund consists of money appropriated by the general assembly and contributions from private sources. The treasurer of the state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Money from private contributions in the fund at the end of a state fiscal year does not revert to the state general fund. Money from private contributions that is in the fund on October 31, 2007, must be reimbursed to the private contributor. Any state money in the fund on October 31, 2007,

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- 1        **reverts to the state general fund.**
- 2        **(p) This SECTION expires November 1, 2007.**

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